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APR 16 2004

In re Application of :
Henry M. Gallops :
Application No.: 10/687,950 :
Filed: October 17, 2003 :
Attorney Docket No.: 1405-342 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed January 14, 2004, titled "Petition Under 37 CFR 1.17(h)." The petition will be treated as request to withdraw the "Notice of Omitted Items in a Nonprovisional Application" (the "Notice") mailed December 8, 2003 in the above-cited application.

The petition is **dismissed**.

The application was filed on October 17, 2003. On December 8, 2003, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of October 17, 2003, but that Figures 10 and 11 as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner argued therein that ten sheets of drawings were filed and that Figures 10 and 11 were included therein. In support, the petition is accompanied by statements authored by persons having first-hand knowledge as to the application's filing, a copy of the application transmittal sheet, and a copy of the postcard that accompanied the application. It is noted that the postcard that is provided does not show a Patent and Trademark Office (Office) date-stamp. The petition was also accompanied by two sheets of drawings that contained Figures 10 and 11.

The arguments have been considered, but are not persuasive. A review of the application file reveals that eight sheets of drawings were filed on October 17, 2003, despite petitioner's assertion that ten sheets of drawings were filed on that date. The Patent and Trademark Office (the "Office") file is the official record of the papers originally filed in this application, and it is presumed that the papers that the Office has on file are the only papers filed, absent an Office date-stamped postcard receipt evidencing the Office's receipt of additional items. Accordingly, the statements provided, copy of the transmittal sheet, and the postcard that is not date-stamped by the Office are not sufficient to overcome the aforementioned presumption.

The petition is dismissed.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 17, 2003, using the 8 sheets of drawings filed on October 17, 2003. Thereafter, the application file will be forwarded to the appropriate technology center where the instant petition will be considered as a preliminary amendment.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.



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Petition Attorney
Office of Petitions